

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 20TH DAY OF JANUARY, 2022

BEFORE

THE HON'BLE MR. JUSTICE H.P. SANDESH

CRIMINAL PETITION NO.258/2022

BETWEEN:

ABDUL RAZAK @ RAZAK,
S/O LATE IQBAL PASHA,
AGED ABOUT 27 YEARS,
R/AT NO.18/15,
NEWTOWN, NEAR T.V. STATION,
KUPPAM, CHITTOOR,
ANDHRA PRADESH-517004.

...PETITIONER

(BY SRI M. KRISHNE GOWDA, ADVOCATE)

AND:

STATE OF KARNATAKA,
STATE BY CUBBON PARK P.S.,
REPTD BY HIGH COURT GOVT. PLEADER,
HIGH COURT OF KARNATAKA,
BANGALORE-560001.

...RESPONDENT

(BY SRI H.S. SHANKAR, HCGP)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 439 OF CR.P.C PRAYING TO ENLARGE THE PETITIONER ON BAIL IN CR.NO.73/2021 (C.C.NO.32442/2021) OF CUBBON PARK POLICE, BANGALORE FOR THE OFFENCE PUNISHABLE UNDER SECTIONS 75, 341, 342, 364A, 395, 201, 120B OF IPC ON THE FILE OF THE VIII ACMM, BANGALORE.

THIS CRIMINAL PETITION COMING ON FOR ORDERS THROUGH VIDEO CONFERENCE THIS DAY, THE COURT MADE THE FOLLOWING:

ORDER

This petition is filed under Section 439 of Cr.P.C. seeking regular bail of the petitioner in Crime No.73/2021 of Cubbon Park Police Station, Bengaluru, for the offence punishable under Sections 75, 341, 342, 364A, 395, 201 and 120B of IPC.

2. Heard the learned counsel for the petitioner and the learned High Court Government Pleader appearing for the respondent-State.

3. The factual matrix of the case of the prosecution is that on 23.08.2021, the accused persons have committed the offence of dacoity and snatched the money from the complainant and out of that, an amount of Rs.10,000/- was transferred in favour of the petitioner and hence he has been arraigned as accused No.8.

4. The learned counsel for the petitioner would submit that this petitioner was the convict and the said order was passed on 28.05.2018 and when he was in custody, the question of transferring the money in favour of the petitioner does not arise. The learned counsel submits that no such money of Rs.10,000/- is transferred in favour of the petitioner.

5. Per contra, learned High Court Government Pleader appearing for the respondent-State would submit that the material collected by the Investigating Officer discloses that an amount of Rs.10,000/- is transferred to the account of the petitioner and hence there is a prima facie case against the petitioner.

6. Having heard the learned counsel for the petitioner and the learned High Court Government Pleader appearing for the respondent-State, the only allegation against the petitioner is that he has received an amount of Rs.10,000/- and hence he has been arraigned as accused No.8. Whether the amount of Rs.10,000/- was transferred out of the amount which was robbed from the complainant is a matter of trial and the same has to be tested in trial. Having taken note of the factual aspects of the case and when the petitioner is in custody and he is a convict and having taken note of the gravity of the allegations made against the petitioner that he had received an amount of Rs.10,000/- out of robbed amount, I am of the opinion that it is a fit case to exercise the discretion in favour of the petitioner and he is a convict cannot be a ground to reject

his bail application and the Court has to take note of the material collected against the petitioner in this case and except the allegation of he has received the amount of Rs.10,000/-, no other material.

7. In view of the discussions made above, I pass the following:

ORDER

The petition is allowed. Consequently, the petitioner shall be released on bail in connection with Crime No.73/2021 of Cubbon Park Police Station, Bengaluru, for the offence punishable under Sections 75, 341, 342, 364A, 395, 201 and 120B of IPC, subject to the following conditions:

- (i) The petitioner shall execute his personal bond for a sum of Rs.2,00,000/- (Rupees Two Lakhs only) with one local surety and one surety of a person from Andhra Pradesh for the like-sum to the satisfaction of the jurisdictional Court.
- (ii) The petitioner shall not indulge in tampering the prosecution witnesses.
- (iii) The petitioner shall appear before the jurisdictional Court on all the future hearing dates, unless exempted by the Court for any genuine cause.

- (iv) The petitioner shall not leave the jurisdiction of the Trial Court without prior permission of the Court till the case registered against him is disposed of.

**Sd/-
JUDGE**

MD